

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

BROCADE COMMUNICATIONS SYSTEMS, )  
INC., a Delaware corporation, and FOUNDRY )  
NETWORKS, LLC, a Delaware limited liability )  
company, )

Plaintiffs, )

v. )

A10 NETWORKS, INC., a California )  
corporation, LEE CHEN, an individual, )  
RAJKUMAR JALAN, an individual, RON )  
SZETO, an individual, LIANG HAN, an )  
individual, STEVEN HWANG, an individual, )  
and DAVID CHEUNG, an individual, )

Defendants. )

Case No.: 10-CV-03428-LHK

ORDER SETTING BRIEFING  
SCHEDULE ON TEMPORARY  
RESTRAINING ORDER

On July 26, 2011, Brocade Communications Systems, Inc. (Brocade) filed a motion for a temporary restraining order (TRO) and a preliminary injunction. Brocade seeks an order preventing A10 Networks, Inc. (A10) from signing sales contracts for A10's AX Series application delivery controller (AX controller) with three potential clients, and from offering the AX controller for sale to any customer. In addition, Brocade asks that A10 be ordered to notify its customers that its AX Series products may be subject to recall if Brocade is successful in this suit. *See* Dkt. No. 124. Brocade's motion is based on its allegation that it has discovered proof that A10 copied Brocade's copyright-protected source code, and utilized Brocade's trade secrets, in A10's AX controllers.

1 Although Brocade appears to seek entry of a TRO before A10 can respond to or oppose the  
2 motion, the Court cannot grant the requested relief without providing A10 an opportunity to  
3 respond. As noted by Brocade in its moving papers, loss of customers, goodwill, and bargaining  
4 power can constitute irreparable harm. *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d  
5 832, 841 (9th Cir. 2001). If the Court erroneously concludes that A10 has infringed Brocade's  
6 copyrights or used its trademarks, based only on Brocade's side of the story, and orders the  
7 measures Brocade seeks, A10 will suffer the same irreparable harm that Brocade complains of  
8 here.

9 Accordingly, the Court sets the following expedited briefing schedule:

10 A10 shall file an opposition to Brocade's motion for TRO by Tuesday, August 2, 2011.  
11 Brocade shall file a reply by Thursday, August 4, 2011. No hearing will be scheduled on this  
12 matter at this time.

13 **IT IS SO ORDERED.**

14 Dated: July 27, 2011

  
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LUCY H. KOH  
United States District Judge